

Senate Study Bill 1205 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act establishing a property tax credit for certain
2 commercial, industrial, and railway property, providing
3 penalties, and including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.512, Code 2011, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 13A. Carry out duties relating to the
4 business property tax credit as provided in chapter 426C.

5 Sec. 2. Section 331.559, Code 2011, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 14A. Carry out duties relating to the
8 business property tax credit as provided in chapter 426C.

9 Sec. 3. NEW SECTION. **426C.1 Definitions.**

10 For the purposes of this chapter, unless the context
11 otherwise requires:

12 1. "*Contiguous parcels*" means any of the following:

13 a. Parcels that share a common boundary.

14 b. Parcels within the same building or structure regardless
15 of whether the parcels share a common boundary.

16 c. Improvements to the land that are situated on one or more
17 parcels of land that are assessed and taxed separately from the
18 improvements if the parcels of land upon which the improvements
19 are situated share a common boundary.

20 2. "*Department*" means the department of revenue.

21 3. "*Fund*" means the business property tax credit fund
22 created in section 426C.2.

23 4. "*Parcel*" means as defined in section 445.1.

24 5. "*Property unit*" means contiguous parcels all of which
25 are located within the same county, with the same property tax
26 classification, each of which contains permanent improvements,
27 are owned by the same person, and are operated by that person
28 for a common use and purpose.

29 Sec. 4. NEW SECTION. **426C.2 Business property tax credit
30 fund — appropriation.**

31 1. A business property tax credit fund is created in the
32 state treasury under the authority of the department. For the
33 fiscal year beginning July 1, 2012, there is appropriated from
34 the general fund of the state to the department to be credited
35 to the fund, the sum of fifty million dollars to be used for

1 business property tax credits authorized in this chapter. For
2 the fiscal year beginning July 1, 2013, and each fiscal year
3 thereafter, there is appropriated from the general fund of the
4 state to the department to be credited to the fund an amount
5 equal to the total amount appropriated by the general assembly
6 to the fund in the previous fiscal year. In addition, the sum
7 of fifty million dollars shall be added to the appropriation
8 in each fiscal year beginning on or after July 1, 2013, if
9 the revenue estimating conference certifies during its final
10 meeting of the calendar year ending prior to the beginning of
11 the fiscal year that the total amount of general fund revenues
12 collected during the fiscal year ending during such calendar
13 year was at least one hundred four percent of the total amount
14 of general fund revenues collected during the previous fiscal
15 year. However, the total appropriation to the fund shall not
16 exceed two hundred million dollars for any one fiscal year.

17 2. Notwithstanding section 12C.7, subsection 2, interest or
18 earnings on moneys deposited in the fund shall be credited to
19 the fund. Moneys in the fund are not subject to the provisions
20 of section 8.33 and shall not be transferred, used, obligated,
21 appropriated, or otherwise encumbered except as provided in
22 this chapter.

23 Sec. 5. NEW SECTION. 426C.3 Claims for credit.

24 1. Each person who wishes to claim the credit allowed
25 under this chapter shall obtain the appropriate forms from the
26 assessor and file the claim with the assessor. The director
27 of revenue shall prescribe suitable forms and instructions for
28 such claims, and make such forms and instructions available to
29 the assessors.

30 2. a. Claims for the business property tax credit shall be
31 filed not later than March 15 preceding the fiscal year during
32 which the taxes for which the credit is claimed are due and
33 payable.

34 b. A claim filed after the deadline for filing claims shall
35 be considered as a claim for the following year.

1 3. Upon the filing of a claim and allowance of the credit,
2 the credit shall be allowed on the parcel or property unit for
3 successive years without further filing as long as the parcel
4 or property unit satisfies the requirements for the credit. If
5 the parcel or property unit owner ceases to qualify for the
6 credit under this chapter, the owner shall provide written
7 notice to the assessor by the date for filing claims specified
8 in subsection 2 following the date on which the parcel or
9 property unit ceases to qualify for the credit.

10 4. When all or a portion of a parcel or property unit that
11 is allowed a credit under this chapter is sold, transferred,
12 or ownership otherwise changes, the buyer, transferee, or new
13 owner who wishes to receive the credit shall refile the claim
14 for credit. When a portion of a parcel or property unit that
15 is allowed a credit under this chapter is sold, transferred,
16 or ownership otherwise changes, the owner of the portion of
17 the parcel or property unit for which ownership did not change
18 shall refile the claim for credit.

19 5. The assessor shall remit the claims for credit to the
20 county auditor with the assessor's recommendation for allowance
21 or disallowance. If the assessor recommends disallowance
22 of a claim, the assessor shall submit the reasons for the
23 recommendation, in writing, to the county auditor. The county
24 auditor shall forward the claims to the board of supervisors.
25 The board shall allow or disallow the claims.

26 6. For each claim and allowance of a credit for a property
27 unit, the county auditor shall calculate the average of all
28 consolidated levy rates applicable to the several parcels
29 within the property unit. All claims for credit which have
30 been allowed by the board of supervisors, the actual value of
31 the improvements to such parcels and property units applicable
32 to the fiscal year for which the credit is claimed that are
33 subject to assessment and taxation prior to imposition of any
34 applicable assessment limitation, the consolidated levy rates
35 for such parcels and the average consolidated levy rates for

1 such property units applicable to the fiscal year for which the
2 credit is claimed, and the taxing districts in which the parcel
3 or property unit is located, shall be certified on or before
4 June 30, in each year, by the county auditor to the department.

5 7. The assessor shall maintain a permanent file of current
6 business property tax credits. The assessor shall file a
7 notice of transfer of property for which a credit has been
8 allowed when notice is received from the office of the county
9 recorder, from the person who sold or transferred the property,
10 or from the personal representative of a deceased property
11 owner. The county recorder shall give notice to the assessor
12 of each transfer of title filed in the recorder's office. The
13 notice from the county recorder shall describe the property
14 transferred, the name of the person transferring title to the
15 property, and the name of the person to whom title to the
16 property has been transferred.

17 Sec. 6. NEW SECTION. 426C.4 Eligibility and amount of
18 credit.

19 1. Each parcel classified and taxed as commercial property,
20 industrial property, or railway property under chapter 434,
21 and improved with permanent construction, is eligible for a
22 credit under this chapter. A person may claim and receive one
23 credit under this chapter for each eligible parcel unless the
24 parcel is part of a property unit. A person may only claim and
25 receive one credit under this chapter for each property unit.
26 A credit approved for a property unit shall be allocated to the
27 several parcels within the property unit in the proportion that
28 each parcel's total amount of property taxes due and payable
29 attributable to the improvements bears to the total amount of
30 property taxes due and payable attributable to the improvements
31 for the property unit. Only property units comprised of
32 commercial property, comprised of industrial property, or
33 comprised of railway property under chapter 434 are eligible
34 for a credit under this chapter.

35 2. Using the actual value of the improvements and the

1 consolidated levy rate for each parcel or the average
2 consolidated levy rate for each property unit, as certified
3 by the county auditor to the department under section 426C.3,
4 subsection 6, the department shall calculate, for each fiscal
5 year, an initial amount of actual value of improvements for
6 use in determining the amount of the credit for each such
7 parcel or property unit so as to provide the maximum possible
8 credit according to the credit formula and limitations under
9 subsection 3, and to provide a total dollar amount of credits
10 against the taxes due and payable in the fiscal year equal to
11 ninety-eight percent of the moneys in the fund following the
12 deposit of the total appropriation for the fiscal year.

13 3. a. The amount of the credit for each parcel or property
14 unit for which a claim for credit under this chapter has
15 been approved shall be calculated under paragraph "b" using
16 the lesser of the initial amount of actual value of the
17 improvements determined by the department under subsection
18 2, and the actual value of the improvements to the parcel or
19 property unit as certified by the county auditor under section
20 426C.3, subsection 6.

21 b. The amount of the credit for each parcel or property
22 unit for which a claim for credit under this chapter has
23 been approved shall be equal to the amount of actual value
24 determined under paragraph "a" multiplied by the difference,
25 stated as a percentage, between the assessment limitation
26 applicable to the parcel or property unit under section 441.21,
27 subsection 5, and the assessment limitation applicable to
28 residential property under section 441.21, subsection 4,
29 divided by one thousand dollars, and then multiplied by the
30 consolidated levy rate or average consolidated levy rate for
31 one thousand dollars of taxable value applicable to the parcel
32 or property unit for the fiscal year for which the credit
33 is claimed as certified by the county auditor under section
34 426C.3, subsection 6.

35 Sec. 7. NEW SECTION. 426C.5 Payment to counties.

1 1. Annually the department shall certify to the county
2 auditor of each county the amounts of the business property
3 tax credits allowed in the county. Each county auditor shall
4 then enter the credits against the tax levied on each eligible
5 parcel or property unit in the county, designating on the tax
6 lists the credit as being from the fund. Each taxing district
7 shall receive its share of the business property tax credit
8 allowed on each eligible parcel or property unit in such taxing
9 district, in the proportion that the levy made by such taxing
10 district upon the parcel or property unit bears to the total
11 levy upon the parcel or property unit by all taxing districts
12 imposing a property tax in such taxing district. However, the
13 several taxing districts shall not draw the moneys so credited
14 until after the semiannual allocations have been received by
15 the county treasurer, as provided in this section. Each county
16 treasurer shall show on each tax receipt the amount of credit
17 received from the fund.

18 2. The director of the department of administrative
19 services shall issue warrants on the fund payable to the county
20 treasurers of the several counties of the state under this
21 chapter.

22 3. The amount due each county shall be paid in two payments
23 on November 15 and March 15 of each fiscal year, drawn upon
24 warrants payable to the respective county treasurers. The two
25 payments shall be as nearly equal as possible.

26 **Sec. 8. NEW SECTION. 426C.6 Appeals.**

27 1. If the board of supervisors disallows a claim for credit
28 under section 426C.3, subsection 5, the board of supervisors
29 shall send written notice, by mail, to the claimant at the
30 claimant's last known address. The notice shall state the
31 reasons for disallowing the claim for the credit. The board
32 of supervisors is not required to send notice that a claim for
33 credit is disallowed if the claimant voluntarily withdraws the
34 claim. Any person whose claim is denied under the provisions
35 of this chapter may appeal from the action of the board of

1 supervisors to the district court of the county in which the
2 parcel or property unit is located by giving written notice
3 of such appeal to the county auditor within twenty days from
4 the date of mailing of notice of such action by the board of
5 supervisors.

6 2. If any claim for credit has been denied by the board
7 of supervisors, and such action is subsequently reversed on
8 appeal, the credit shall be allowed on the applicable parcel
9 or property unit, and the director of revenue, the county
10 auditor, and the county treasurer shall provide the credit and
11 change their books and records accordingly. In the event the
12 appealing taxpayer has paid one or both of the installments of
13 the tax payable in the year or years in question, remittance
14 shall be made to such taxpayer of the amount of such credit.
15 The amount of such credit awarded on appeal shall be allocated
16 and paid from the balance remaining in the fund.

17 Sec. 9. NEW SECTION. **426C.7 Audit — denial.**

18 1. If on the audit of a credit provided under this chapter,
19 the director of revenue determines the amount of the credit
20 to have been incorrectly calculated or that the credit is
21 not allowable, the director shall recalculate the credit and
22 notify the taxpayer and the county auditor of the recalculation
23 or denial and the reasons for it. The director shall not
24 adjust a credit after three years from October 31 of the year
25 in which the claim for the credit was filed. If the credit
26 has been paid, the director shall give notification to the
27 taxpayer, the county treasurer, and the applicable assessor
28 of the recalculation or denial of the credit and the county
29 treasurer shall proceed to collect the tax owed in the same
30 manner as other property taxes due and payable are collected,
31 if the parcel or property unit for which the credit was allowed
32 is still owned by the taxpayer. If the parcel or property unit
33 for which the credit was allowed is not owned by the taxpayer,
34 the amount may be recovered from the taxpayer by assessment in
35 the same manner that income taxes are assessed under sections

1 422.26 and 422.30. The amount of such erroneous credit, when
2 collected, shall be deposited in the fund.

3 2. The taxpayer or board of supervisors may appeal any
4 decision of the director of revenue to the state board of tax
5 review pursuant to section 421.1, subsection 5. The taxpayer,
6 the board of supervisors, or the director of revenue may seek
7 judicial review of the action of the state board of tax review
8 in accordance with chapter 17A.

9 Sec. 10. NEW SECTION. **426C.8 False claim — penalty.**

10 A person who makes a false claim for the purpose of obtaining
11 a credit provided for in this chapter or who knowingly receives
12 the credit without being legally entitled to it is guilty of a
13 fraudulent practice. The claim for a credit of such a person
14 shall be disallowed and if the credit has been paid the amount
15 shall be recovered in the manner provided in section 426C.7.
16 In such cases, the director of revenue shall send a notice of
17 disallowance of the credit.

18 Sec. 11. NEW SECTION. **426C.9 Rules.**

19 The director of revenue shall prescribe forms, instructions,
20 and rules pursuant to chapter 17A, as necessary, to carry out
21 the purposes of this chapter.

22 Sec. 12. IMPLEMENTATION. Notwithstanding the deadline
23 for filing claims established in section 426C.3, for a credit
24 against property taxes due and payable during the fiscal year
25 beginning July 1, 2012, the claim for the credit shall be filed
26 not later than January 15, 2012.

27 Sec. 13. APPLICABILITY. This Act applies to property taxes
28 due and payable in fiscal years beginning on or after July 1,
29 2012.

30 **EXPLANATION**

31 This bill creates a business property tax credit under new
32 Code chapter 426C for property taxes due and payable in fiscal
33 years beginning on or after July 1, 2012.

34 The bill establishes a business property tax credit
35 fund. For the fiscal year beginning July 1, 2012, the

1 bill appropriates from the general fund of the state to the
2 department of revenue for deposit in the fund, \$50 million.
3 For the fiscal year beginning July 1, 2013, and each fiscal
4 year thereafter, the bill appropriates from the general fund of
5 the state to the department of revenue for deposit in the fund
6 an amount equal to the total amount appropriated by the general
7 assembly to the fund in the previous fiscal year. In addition,
8 for fiscal years beginning on or after July 1, 2013, the bill
9 appropriates an additional sum of \$50 million to the fund if
10 the revenue estimating conference certifies that the total
11 amount of general fund revenues has grown by at least 4 percent
12 as compared to the previous fiscal year. The bill provides,
13 however, that the total appropriation to the fund shall not
14 exceed \$200 million in any one fiscal year. Under the bill,
15 interest or earnings on moneys deposited in the fund are
16 credited to the fund, moneys in the fund are not subject to the
17 provisions of Code section 8.33, and moneys in the fund shall
18 not be transferred, used, obligated, appropriated, or otherwise
19 encumbered except as provided in new Code chapter 426C.

20 The bill provides that each person who wishes to claim a
21 business property tax credit shall obtain the appropriate
22 forms from the assessor and file the claim with the assessor.
23 The director of revenue is required to prescribe suitable
24 forms and instructions for such claims, and make such forms
25 and instructions available to the assessors. The assessor
26 is required to remit the claims for credit to the county
27 auditor with the assessor's recommendation for allowance
28 or disallowance. If the assessor recommends disallowance
29 of a claim, the assessor shall submit the reasons for the
30 recommendation, in writing, to the county auditor. The county
31 auditor then forwards the claims to the board of supervisors.
32 The board is required to allow or disallow the claims. If
33 the board of supervisors disallows a claim for a credit, the
34 board of supervisors is required to send written notice, by
35 mail, to the claimant and the notice must state the reasons for

1 disallowing the claim for the credit. Any person whose claim
2 for credit is denied may appeal from the action of the board of
3 supervisors to the district court of the county in which the
4 parcel or property unit is located.

5 Claims for the business property tax credit must be filed
6 not later than March 15 preceding the fiscal year during which
7 the property taxes for which the credit is claimed are due
8 and payable. However, the deadline for filing claims against
9 property taxes due and payable in the fiscal year beginning
10 July 1, 2012, is January 15, 2012.

11 Upon the filing of a claim and allowance of a business
12 property tax credit, the credit is allowed on the parcel or
13 property unit for successive years without further filing as
14 long as the parcel or property unit satisfies the requirements
15 for the credit. The owner is required to provide written
16 notice to the assessor when the parcel or property unit ceases
17 to qualify for the credit. The bill requires the assessor to
18 maintain a permanent file of current credits and also specifies
19 certain requirements for parcel or property unit owners,
20 assessors, and county recorders when all or a portion of such
21 parcels or property units are sold, transferred, or ownership
22 otherwise changes.

23 Under the bill, each parcel classified and taxed as
24 commercial property, industrial property, or railway
25 property under Code chapter 434, and improved with permanent
26 construction, is eligible for a business property tax credit.
27 A person may claim and receive one credit for each eligible
28 parcel unless the parcel is part of a property unit. The
29 bill defines "property unit" to mean contiguous parcels
30 located within the same county, with the same property tax
31 classification, each containing permanent improvements, owned
32 by the same person, and operated by that person for a common
33 use and purpose. A person may only claim and receive one
34 tax credit for each property unit. A credit approved for a
35 property unit is allocated to the several parcels within the

1 property unit in the proportion that each parcel's property
2 tax liability on improvements bears to the total property tax
3 liability on improvements for the property unit. Only those
4 property units comprised of commercial property, comprised of
5 industrial property, or comprised of railway property under
6 Code chapter 434 are eligible for a credit.

7 The bill provides that all claims for credit which have been
8 allowed, the actual value of the improvements to the applicable
9 parcels and property units that are subject to assessment and
10 taxation, the consolidated levy rates or average consolidated
11 levy rates for such parcels and property units applicable to
12 the fiscal year for which the credit is claimed, and the taxing
13 districts in which each parcel or property unit is located,
14 shall be certified on or before June 30, in each year, by the
15 county auditor to the department of revenue.

16 The bill provides that using the actual value of the
17 improvements and the consolidated levy rate or average
18 consolidated levy rate for each parcel or property unit, as
19 certified by the county auditor, the department is required
20 to calculate, for each fiscal year, an initial amount of
21 actual value of improvements for use in determining the amount
22 of the credit for each approved parcel or property unit so
23 as to provide the maximum possible credit according to the
24 credit formula and limitations in the bill, and to provide a
25 total dollar amount of credits in the fiscal year equal to 98
26 percent of the moneys in the business property tax credit fund
27 following the deposit of the total appropriation for the fiscal
28 year.

29 The credit for each parcel or property unit for which a
30 claim for a business property tax credit has been approved is
31 calculated using the lesser of the initial amount of actual
32 value of the improvements determined by the department for
33 the fiscal year and the actual value of improvements to the
34 parcel or property unit as certified to the department of
35 revenue. The amount of the credit for each parcel or property

1 unit is then calculated by multiplying the lesser amount of
2 actual value, so determined, by the difference, stated as
3 a percentage, between the assessment limitation applicable
4 to the parcel or property unit under Code section 441.21(5)
5 (commercial, industrial, and railway property tax rollback)
6 and the assessment limitation applicable to residential
7 property under Code section 441.21(4) (residential property
8 tax rollback), divided by \$1,000, and then multiplied by the
9 consolidated levy rate or average consolidated levy rate for
10 \$1,000 of taxable value applicable to the parcel or property
11 unit for the fiscal year for which the credit is claimed.

12 The bill specifies the procedures for the payment of the
13 amount of the business property tax credits to the county
14 treasurers and the resulting apportionment to the applicable
15 taxing districts. The bill also specifies the requirements
16 and procedures for an appeal of a denial of a claim for
17 credit, specifies the requirements and procedures for an audit
18 of a business property tax credit allowed, and specifies
19 requirements relating to the collection of property taxes
20 due as the result of an incorrectly calculated or improperly
21 approved credit.

22 The bill provides that a person who makes a false claim for
23 the purpose of obtaining a business property tax credit or who
24 knowingly receives the credit without being legally entitled
25 to it is guilty of a fraudulent practice and is subject to a
26 criminal penalty.

27 The bill requires the director of revenue to prescribe
28 forms, instructions, and rules pursuant to Code chapter 17A, as
29 necessary, to carry out the purposes of new Code chapter 426C.

30 The bill applies to property taxes due and payable in fiscal
31 years beginning on or after July 1, 2012.